

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6622

BILL NUMBER: HB 1654

NOTE PREPARED: Mar 26, 2007

BILL AMENDED: Mar 22, 2007

SUBJECT: Sex Crime Victims and Polygraph Examinations.

FIRST AUTHOR: Rep. Dembowski

FIRST SPONSOR: Sen. Steele

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State and Local

Summary of Legislation: (Amended) This bill has the following provisions

- A. *Polygraph Examination:* The bill prohibits a law enforcement officer from requiring an alleged victim of a sex crime to submit to a polygraph or other truth telling device. It provides that a law enforcement officer may not refuse to investigate, charge, or prosecute a sex crime solely because the alleged victim of the sex crime has not submitted to a polygraph or other truth telling device.
- B. *Reimbursed Medical Services:* The bill removes restrictions for when the Victim Services Division of the Criminal Justice Institute (CJI) may reimburse a medical services provider for the costs in providing forensic services.
- C. *Secured Storage Fund:* It creates the Secured Storage Fund to assist counties with paying for the secured storage of a sample from forensic medical examinations of a sex crime victim.
- D. *Storage of Samples:* It requires a hospital to give notice to a victim of certain rights and to contact law enforcement. The bill requires law enforcement to transport the sample to secured storage, and it requires the sample to remain in secured storage for specified periods of time. It also requires the CJI to provide notice to victims regarding the sample.
- E. *Sexual Assault Response Team:* The bill requires a prosecuting attorney to appoint a Sexual Assault Response Team (SART) if a SART is not established in a county, or to join with one or more other counties to create a regional SART. It also requires a SART to develop a plan regarding evidence of sexual assaults.
- F. *Admissibility:* The bill provides that the failure to comply with certain statutory provisions, county plans, or SART protocols relating to the collection and preservation of evidence of a sexual assault does not, standing alone, affect the admissibility of evidence in a civil or criminal proceeding.

Effective Date: July 1, 2007.

Explanation of State Expenditures: *Summary – Reimbursement of Costs of Providing Additional Forensic Services* - This bill would increase the claims that the Violent Crimes Victim Compensation Fund would be required to pay for sex crime victims who would request additional forensic services and are currently not eligible because they do not report the crime to the law enforcement agency. Also, the crimes that are to be considered sex crimes are expanded to include child solicitation, child seduction, and incest. The fund reimburses hospitals and other medical service providers for the costs of treating sex crime victims. The number of victims for whom hospitals and medical services providers provide treatment is not known.

(Revised) *Secured Storage of Forensic Samples* – The Victims Service Division of the Criminal Justice Institute would also be required to monitor the samples from forensic examinations placed in secured storage and inform victims that the sample may be destroyed within one year if the victim does not report the sex crime to the local law enforcement agency.

Background on Reimbursement of Medical Service Providers: Claims for medical services would likely increase if the Victim Services Division of the Criminal Justice Institute (CJI) pays forensic medical services costs not currently covered. Any increase in cost will depend on the Division's administrative decisions to compensate or reimburse a victim for additional forensic services.

Estimating the number of sex crime victims is difficult. The most recent data available from the *2003 Sourcebook of Criminal Justice Statistics* shows a rate of 29.9 forcible rapes for 100,000 inhabitants. Based on the reported statewide population of 6.3 million, the number of forcible rapes that could be reported is almost 1,900 per year. In FY 2005, the Department of Child Services reported 4,381 substantiated cases of child sexual abuse.

Types of Medical Services for Sex Crimes Victims – Current law recognizes two types of medical services for victims of sex crimes: (1) a forensic medical exam and (2) additional forensic services.

Definitions in Statute	Types of Services Included	Payer of Services If Victim:	
		Reports and Cooperates with Law Enforcement Agency	Does Not Report or Cooperate with Law Enforcement Agency
Forensic Medical Exam IC 16-18-2-139.5	Appropriate procedures for acquiring evidence for a criminal proceeding against a person charged with sex crime; Suturing and care of wounds, anesthesia, and prescribed medication.	Victim Services Division of Criminal Justice Institute	Victim Services Division of Criminal Justice Institute
Additional Forensic Services IC 16-18-2-1.8	Pregnancy and sexually transmitted disease testing; Prophylactic medication related to pregnancy, pregnancy testing, or sexually transmitted disease testing; Alcohol and drug testing; Syphilis testing up to 90 days after alleged sex crime; Pregnancy testing up to 30 days after an alleged sex crime; Mental health counseling	Victim Services Division of Criminal Justice Institute	Either victim or third-party payer

As proposed, this bill would require the Violent Crimes Victim Compensation Fund to reimburse a medical service provider for additional forensic services regardless of whether the victim over the age of 18 reports the crime to a law enforcement agency and cooperates to the fullest extent possible. Victims under 18 years of age must still report the sex crime to child protective services or a law enforcement officer. Extending reimbursement for additional forensic services would increase the number of victims who might request these services, increasing the payments from the Violent Crime Victims Compensation Fund. If payments exceed funding levels, the CJI may have to delay payments until sufficient funds are available to pay additional claims for reimbursement. When the Victims Compensation Fund reimburses a medical services provider, it, in turn, is reimbursed from federal sources for 60% of funds paid out.

The source of reimbursement to hospitals and medical care service providers is the Violent Crimes Victim Compensation Fund. The fund receives money from six sources:

- IC 5-2-6.3-6 – Money held in escrow from broadcasting rights of an accused or convicted felon
- IC 11-10-7-5 and IC 11-10-7-5– Earnings from an offender sentenced to a correctional facility or in a work release program
- IC 33-37-7-9 – \$2,213,086 annual transfer from state General Fund
- IC 34-51-3-6 – 75% of the punitive damage awards
- IC 35-50-5-3 – restitution orders

The following shows reimbursements from the Violent Crime Victims Compensation Fund for all victims including victims of sexual assault.

Reimbursements (in \$M) from Violent Crime Victims Compensation Fund											
1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007*
\$2.08	\$2.19	\$2.33	\$2.34	\$3.40	\$2.34	\$2.85	\$2.12	\$3.00	\$2.71	\$1.36	\$3.26
* Annualized based on first six months.											
Source: Account 3180/150000											

(Revised) *Background on Secured Storage:* Under the bill, law enforcement is to obtain within 48 hours a sample and transport the sample to secured storage. The sample must be kept at least one year or until the victim reports the sex crime to law enforcement and the sample is transported to the crime lab for investigation and use as evidence. If the sample is to be discarded after one year, the Division notifies the crime victim at least 10 days before the sample is discarded either by first class mail to the victim's last known address or by email.

(Revised) *Secured Storage Fund:* The Secured Storage Fund will be administered by the Victim Services Division to secure storage of samples from forensic medical examinations of sex crime victims. Revenues to the Fund include grants and other funds identified by the CJI, as well as gifts and donations.

Explanation of State Revenues:

Explanation of Local Expenditures: *Sample Storage:* Local law enforcement agencies may experience increased cost for the following:

- transporting samples to secured storage sites or to a crime lab
- maintenance of the sample
- tracking samples for discard

Costs for maintenance of samples are expected to be minimal and may be covered by funding from the Secured Storage Fund established under the bill. There is no appropriation attached to this bill.

Background: The Indiana State Police maintain samples of DNA from convicted offenders which may be similar to the way samples would need to be maintained under the bill. They report that they create slides from the sample, which must be kept dry but may be maintained at room temperature.

(Revised) *Sexual Assault Response Team:* The Indiana Coalition Against Sexual Assault reports that sexual assault response teams existed in 22 counties in 2006. While not defined in statute, these teams generally include medical and nursing staff, prosecuting attorneys, law enforcement officers, victim service advocates, social workers, and crime lab technicians. The bill also allows these teams to be set up among one or more counties. These teams generally meet every two to four months and review protocol and systemic issues. Any added costs to local units of government or elected offices should be minimal.

Explanation of Local Revenues:

State Agencies Affected: Criminal Justice Institute.

Local Agencies Affected: Local law enforcement.

Information Sources: Sarah Meyer, Criminal Justice Institute; Anita Carpenter, Indiana Coalition Against Sexual Assault; Paul Misner, 317-895-5136 Indiana State Police; *2003 Sourcebook of Criminal Justice Statistics*.

Fiscal Analyst: Mark Goodpaster, 317-232-9852.